

Remarks

Applicant respectfully submits the following remarks in response to the Office Action.

I. Claim Rejections – 35 U.S.C. § 102(a)

Applicant respectfully traverses the Examiner's rejection of claims 1-50 under 35 U.S.C. § 102(e) as being unpatentable over Cannon (6,652,378). Cannon discloses a gaming machine that allows multiple, non-identical games to be played substantially simultaneously on the gaming machine. Cannon also discloses a bonus game that may be triggered by a particular outcome or level on one or more games being played on the gaming machine. The separate, substantially simultaneously operating bonus indicator of the present invention is different. First, it is not a "game" as that term is known in the art and used in the Cannon patent. The bonus indicator is simply that, an indicator that randomly determines and entertainingly displays whether or not a player will be entitled to participate in a bonus feature. The bonus indicator is not a game that itself determines winning or losing outcomes as are the games disclosed in Cannon. The bonus indicator of the present invention does not provide for any result other than the player's entitlement to proceed to a bonus feature. The claims and specification of the application have been amended to make that distinction clear and to define "bonus indicator" as something different from a primary game.

The claims and specification no longer refer to the bonus indicator awarding the player a prize or promotional item. This is not the function of the bonus indicator in the application as amended. Instead, the bonus indicator determines, independent of any result on the primary or base game, whether or not a player is entitled to proceed to a bonus feature, game or round.

Applicant respectfully submits that this aspect of the invention is not disclosed in Cannon or any

of the other prior art cited by the Examiner or of which Applicant is aware. And, therefore, Cannon does not anticipate any of the above listed claims, as amended.

As the Examiner notes, Column 8, lines 34-46 of Cannon discusses the play of simultaneous games, as well as the display of those games and their outcomes on a single display screen. As stated in Column 8, lines 34-42, "[b]y 'simultaneous play' it is meant that a plurality of selected games may be initiated for play at the same time and wherein the image representations for each of the selected games are substantially mutually concurrently displayed on a single display screen. ... After initiation of simultaneous play, game outcomes may be simultaneously, sequentially, or randomly displayed on single display screen." The games referenced in Cannon are the standard fare for video slot or poker machines. "For example, a player may choose to mutually concurrently play one instance of a reel slot machine game, one instance of a video poker game, one instance of a keno game and one instance of a blackjack game by selecting those games using player input devices" Column 10, lines 32-36. In Cannon, the game is initiated by the player, after inserting credits or coins, and an outcome is determined and displayed. The outcome is compared to a set of predetermined outcomes, and the game determines if the outcome is a winning or losing outcome, and, if a winning outcome, how much has been won. That amount, if any, is then awarded to the player.

The bonus indicator of the present invention is not a game in its own right. The bonus indicator does not result in an outcome of its own based upon the outcome displayed. A player is not awarded coins or credits based upon the outcome of the bonus indicator. Instead, the bonus indicator simply indicates whether or not the player is entitled to participate in a bonus feature, and, if she is, the bonus feature will determine whether and how much the player will be awarded based upon its own outcome. Awarding credits or prizes is not a function of the bonus indicator.

This distinction is perhaps most readily seen from the player's standpoint. In Cannon, a player plays several games simultaneously on a single display screen. Each game is an independent event. And each game has an independent possibility of win or loss. The player must make a separate wager to play each game and he will receive credits based upon the individual game result and the amount wagered on that game. On the other hand, the bonus indicator of the present invention is not a separate game. First, there is no separate wager required to initiate the bonus indicator. As noted on page 8, lines 12-15 of the present specification "[b]y starting the primary game 101, or by placing a predetermined minimum bet in the primary game 101, the player automatically activates the bonus indicator 103. Second, the player will not receive credits or other awards based upon the outcome of the bonus indicator. The bonus indicator is simply an intermediate link – a stepping stone – between the base game and a bonus feature. Neither Cannon, nor any other prior art of which Applicant is aware utilizes a similar intermediate, non-game, step to a bonus feature.

Nor is the bonus indicator of the present invention anticipated by Cannon's disclosure of a bonus game or feature. The present invention includes a bonus game or feature, but one that is triggered by the new and non-obvious bonus indicator. In Cannon, a bonus game or feature is awarded to a player based upon the result obtained in the primary or base game. The bonus game is only awarded based on a pre-determined result in the base game. This is made clear in several places in the Cannon patent. For example, Col. 24, lines 18-25: "a particular outcome or level of winning on one or more games selected for simultaneous, sequential, or random play triggers a microprocessor in gaming machine 70 to activate one or more 'bonus' games, in which a player is permitted the opportunity to attempt to achieve winning game outcomes at no additional cost to the player (i.e., without the input of additional currency or the wagering of

available credits)." And Col. 24, lines 34-36:"[t]he bonus games may be of the same, similar or completely different class or type as the games in which the winning outcome(s) were achieved." Therefore, in Cannon, as in other games including bonus features and events, the bonus is initiated only when a pre-determined winning result is achieved in the base game.

By contrast, the base game on which the player initially wagers in the present invention has no bearing on whether or not the player will proceed to a bonus feature. That determination is made by the wholly independent, albeit simultaneously operating, bonus indicator. As stated in the present specification at page 6, the player may win the base game and be entitled to a bonus feature, lose the base game and be entitled to a bonus feature, win the base game and not be entitled to a bonus feature, or lose the base game and not be entitled to a bonus feature. This independent initiation of the bonus game is missing from Cannon. The patent claims have been amended to better describe this independence.

In short, Cannon discloses a primary game and a bonus game triggered by the primary game. The present invention includes an intermediate stepping stone, a bonus indicator that operates simultaneously with, but independently from, the base game. A primary game in Cannon is not equivalent to the bonus indicator of the present application. A Cannon primary game will provide a primary-game outcome and may also indicate, based on that primary-game outcome, that a player is also entitled to a bonus feature. But this is not a bonus indicator as disclosed in the present application. It is an independent game that requires its own credits for initiation and that provides a primary-game outcome. Moreover, a Cannon primary game indicates entitlement to a bonus round based on the outcome of the primary game, not independently of the primary game outcome as in the present application.

In amending the Specification, Applicant has clarified the language to make the terms bonus game, bonus feature and bonus round synonymous. Applicant has also removed references indicating that the bonus indicator is an independent game capable of awarding prizes based upon its own outcome and instead stated that the bonus indicator merely provides an independently operating and aesthetically pleasing display to indicate to the player that he or she will proceed to a bonus feature.

Applicant has also amended the claims to include in independent claims 1, 11, 22, 32 and 49 the independence of the bonus indicator from the primary game. In so doing, Applicant cancelled dependent claims 10, 21, 31, and 42. In addition, Applicant amended claims 12 and 33, and cancelled claims 43 through 48, to clarify that the bonus indicator is not a primary game that is initiated by player credits and that awards prizes based upon its outcome – but is instead only an indicator, that simply indicates whether or not the player is entitled to proceed to a bonus feature, game or round.

In addition, new claim 51 has been added, which claims:

A gaming apparatus, comprising:

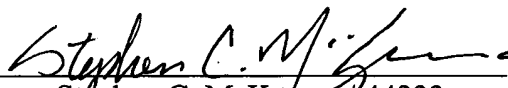
a primary game having a bonus feature, said primary game configured to operate to produce at a display winning and losing primary game outcomes; and

a bonus indicator to operate substantially simultaneously with said primary game, said bonus indicator displayed separately from said primary game outcome display and randomly selected between enabling and not enabling said bonus feature independent of said primary game outcome.

Applicant believes that this claim, as well as the remaining claims, as amended, highlight and define the new and non-obvious aspects of her invention.

Applicant has amended each of the independent claims of the application, and the amendments are therefore applicable to all the dependent claims as well. An anticipatory reference under § 102 must contain each and every limitation of the claims it anticipates. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed. Cir. 1986). For the reasons set forth above, the separate, distinct, independent bonus indicator of amended independent claims 1, 11, 22, 32, 49 and 51 of this invention, and all the other claims which depend therefrom, is not taught or disclosed by Cannon, and the Applicant respectfully requests that the Examiner withdraw the rejection.

Respectfully submitted,


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